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For Defendant United States of America

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF OREGON**

In re

Case No. 21-31142-dwh11

Edward A. Ariniello, Jr.,

CREDITOR INTERNAL REVENUE
SERVICE'S AMENDED MOTION FOR
RELIEF FROM AUTOMATIC STAY

Debtor.

Creditor Internal Revenue Service ("IRS") hereby amends its motion for relief from the automatic stay to include debtor's funds that are newly available to the IRS. IRS filed its motion for relief from the automatic stay protecting debtor's property under 11 U.S.C. § 362 and FRBP 4001 in this matter on December 3, 2021. ECF 55.

Debtor currently owes Trust-Fund Recovery Penalties of \$99,187.06, incurred prior to the filing of his bankruptcy petition (Claim 2-3). Over a year ago, Debtor was issued a refund check of \$25,797 for tax year 2019. Because the check was issued over a year ago and was not cashed by the Debtor, the check is now expired and the funds are now located in the IRS's Integrated Data Retrieval System. Therefore, these funds are available to the IRS. The IRS requests that funds from the 2019 refund be included in its request that automatic stay be lifted to allow it to offset the income tax refund against the pre-petition liability.

DATED: December 22, 2021.

SCOTT ERIK ASPHAUG, OSB #833674

United States Attorney

District of Oregon

By: /s/ Jessie D. Young

Jessie D. Young, OSB #135246

Assistant United States Attorney

CERTIFICATE OF SERVICE

IT IS HEREBY CERTIFIED that service of the foregoing CREDITOR INTERNAL REVENUE SERVICE'S AMENDED MOTION FOR RELIEF FROM AUTOMATIC STAY WAS served by mailing a true copy addressed to the following, except those designated as receiving ECF notice, who will be served electronically by ECF:

Nicholas J. Henderson, Motschenbacher & Blattner, LLP, Attorney for debtor	ECF Only
Amy E Mitchell, Trustee	ECF Only

Edward A. Ariniello, Jr.
29455 SW Heater Rd.
Sherwood, OR 97140

Dated: December 22, 2021

/s/ Jessie Young

Jessie Young, OSB #135246
Assistant United States Attorney